

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

C.B.,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E072591

(Super.Ct.No. J277145)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Annemarie G.

Pace, Judge. Petition denied.

Vincent W. Davis for Petitioner.

No appearance for Respondent.

Michelle D. Blakemore, County Counsel, Pamela J. Walls, Special Counsel, for
Real Party in Interest.

Petitioner C.B. (mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging a juvenile court's order terminating reunification services as to her child, C.C., and setting a Welfare and Institutions Code¹ section 366.26 hearing. We deny the writ petition.

FACTUAL AND PROCEDURAL BACKGROUND

On July 27, 2018, the San Bernardino County Department of Children and Family Services (CFS) filed a section 300 petition alleging that the child came within subdivisions (g) (no provision for support) and (j) (abuse of sibling). The petition alleged that the whereabouts of the child's alleged father, D.C. (father)² were unknown, and also alleged that an amended petition was filed on July 16, 2018, on behalf of four of the child's half siblings. The amended petition alleged physical abuse by mother as to two of them and physical abuse, general neglect, and emotional abuse by mother as to the other two.

The social worker filed a detention report stating that a referral was generated when the child was born premature on July 3, 2018. The child was born at 33 weeks and weighed three pounds 13 ounces. He reportedly needed to stay in the newborn intensive care unit for several weeks. It was also reported that mother had posttraumatic stress syndrome and depression. She was rude to the hospital social worker and cursed at her when the social worker tried to meet her.

¹ All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

² Father is not a party to this writ.

After attempting phone contact with mother several times, a CFS social worker made an unannounced visit to mother's home. Mother initially appeared angry, but allowed the social worker in. Mother said there was no reason for CFS to be involved with her newborn because he had a different father, who was not a part of her open dependency case. However, CFS determined that the risk to the child was too great to allow him to reside with mother at that time.

The court held a detention hearing on July 30, 2018, and detained the child in foster care. The court ordered supervised visitation once a week and ordered services to be provided, pending the development of a case plan.

Jurisdiction/Disposition

The social worker filed a jurisdiction/disposition report on August 14, 2018, recommending that the court sustain the petition, declare the child a dependent, remove him from mother, and order reunification services. The social worker reported that mother denied all of the previous allegations in her open case, denied that she ever physically abused her other children, and denied any substance abuse or mental health history. The social worker noted mother's aggressive attitude and confrontational behavior and opined that she would need to actively participate in counseling to help her be accountable for her actions. The social worker reported that, although mother said she and father were in an intimate relationship that produced the child, they both requested a paternity test. Mother was married to the father of her other children, R.S., who stated that he did not want the responsibility of the child.

The court held a contested jurisdiction/disposition hearing on August 21, 2018. Pursuant to a stipulation by the parties, the petition was amended to assert jurisdiction based on subdivision 300, subdivision (j). The court dismissed the remaining allegations. It sustained the amended petition and found that the child came within section 300, subdivision (j).

The court held another hearing on September 18, 2018, and mother was not present. The court declared the child a dependent and removed him from mother's custody. The court ordered reunification services for mother and ordered visits to be two times a week, unsupervised. Mother's case plan included the requirements that she participate in general counseling and a parenting education program.

At a nonappearance review on September 24, 2018, it was reported that mother had been exhibiting concerning behavior. On September 4, 2018, she contacted the social worker to say she no longer wanted to reunify with her other children (the children), but then contacted the social worker to say she wanted to participate in reunification services for the child. On September 7, 2018, she stated her concern that the children were being molested by their father (R.S.) and requested CFS to pick up two of them (they were in Arizona with him). However, the social worker informed her they no longer had an open case. (It appears the court had previously placed the children with their father, and a family law custody order was issued.) Then, on September 12, 2018, mother contacted the Los Angeles County Child Abuse Hotline requesting that her children be removed from her care because she was an unfit parent. (Apparently, she had two of her other children living with her.) However, that referral was assessed by the

hotline that mother was possibly experiencing postpartum depression. Because of concerns for mother's unstable, emotional well-being, the social worker recommended that the current visitation orders with the child be limited to supervised visitations once a week. The court so ordered.

On September 25, 2018, the social worker recommended that mother undergo a psychological examination. The court thus ordered a psychological examination at CFS expense.

On September 30, 2018, the child was hospitalized due to having a seizure. However, he was discharged and placed in a special health care needs placement home to assist in his care.

Six-month Status Review

On March 12, 2019, the social worker filed a status review report recommending that services for mother be continued. The social worker reported that she had offered to refer mother to services on several occasions; however, mother had enrolled herself in services in Los Angeles County, where she resided, and stated she would not be able to travel to San Bernardino County for services. Although the social worker suggested transferring her case to Los Angeles County, mother asked for the case to remain in San Bernardino County. Mother was currently participating in individual counseling on a weekly basis. As to her parenting program requirement, she said she was addressing parenting through her therapist, and she declined referrals. The social worker informed her of the concerns about her emotional well-being, and mother said she was upset about the situation and the child being removed from her care.

The social worker reported that she informed mother several times that the court ordered her to complete a psychological evaluation. However, mother would decline to complete an evaluation, stating that she was “not crazy.” She subsequently said she would complete the evaluation on her own. On March 10, 2019, mother reported that she completed her evaluation. However, the social worker did not receive the results.

As to visitation, from August 28, 2018 to December 2018, mother did not visit due to transportation issues. She declined gas cards and bus passes on several occasions. Starting in January 2019, she began visiting more frequently, and the visits were appropriate. However, she had a visit on February 4, 2019, at which she complained that the child had dirty toes. She began videotaping them, then yelling that the toes were broken. She became hysterical and requested to speak with a supervisor. The social worker was concerned that mother was experiencing mental instability.

The social worker filed an addendum report on March 18, 2019, and changed the recommendation to terminating services and setting a section 366.26 hearing to establish adoption as the permanent plan. Mother provided the social worker with a copy of an alleged psychological evaluation she completed on March 10, 2018. However, the evaluation form was for what was called an “Adult Full Assessment,” and it was signed by a family medicine doctor. Furthermore, the social worker noted the doctor just gathered self-reported information from mother, and he did not give any input regarding CFS’s concerns about mother. The social worker was troubled because the assessment was not completed by a licensed psychologist. She was also concerned that the results might have been impacted by the information, since it was self-reported by mother. For

example, one of the responses in the report stated that mother denied any history of trauma, including being physically hurt or threatened. However, mother had previously reported to CFS that she was involved in severe domestic violence with R.S., and he had threatened her life. She had also previously reported that her mother was murdered by her father while she was in the home.

The social worker further reported that, during a visit on March 11, 2019, mother asked what the recommendation was for the next hearing. The social worker said there were concerns she had not engaged in services until late in the case; thus, there were thoughts of terminating services, even though the recommendation was for an extension of services. Mother became very upset, and began to yell and cuss, which caused the child to cry. The social worker asked her to calm down several times, but she continued to yell and stated she was going to relinquish the child to her family. Mother stated she would then have her baby in her care when he went with her family. She stated she would not go to the next hearing. She then calmed down, but continued to express her dissatisfaction with CFS and accused CFS of telling lies about why the child was detained. She also blamed R.S. for CFS involvement. The social worker was concerned that mother's reactions to undesired situations led her to become enraged and do things that impacted her and others negatively. The social worker stated that her manner of reacting caused concern about her ability to keep a safe and stable environment, since the child had special needs. The social worker reported that the child was tested and the results were consistent with Down Syndrome.

The social worker acknowledged that she received a progress letter from the Homeless Outreach Program/Integrated Care Systems (HOPICS), stating that mother had attended 26 sessions of individual counseling. However, the social worker felt the letter was too general and did not give insight on mother's progress or behavioral changes. The social worker opined that mother was not receptive to services, and whenever she was confronted with a difficult situation, she usually resorted to blaming others or becoming angry. The social worker stated mother had not demonstrated that she had developed appropriate conflict resolution skills or developed healthy coping mechanisms in addressing undesired situations. Because she had not demonstrated any behavioral changes or taken responsibility for her role in the child's removal and still blamed others for her current situation, the social worker recommended termination of services.

The court held a six-month review hearing on March 18, 2019. Mother requested the matter be set for contest. She also provided the court with a letter from Stay Free Counseling Services (Stay Free) and asserted that she had substantially complied with services. The court noted that the services were not provided through CFS and stated it would consider the letter if it was authenticated. The court continued the matter to April 25, 2019.

On April 25, 2019, the social worker filed additional information for the court, reporting that she was informed by someone named T. Scott from Stay Free that mother had attended services with her agency. Ms. Scott said she did not have certificates of completion before, but had recently obtained some. She added that Stay Free was a nonprofit agency that provided free counseling services. The social worker did an online

search and was unable to find Stay Free. A Web site for Stay Free was out of date, and when the social worker contacted the phone number listed, it was a private cell phone, and the person said it was the wrong number. The social worker also contacted the Los Angeles County Department of Children and Family Services to see if they had referred mother to Stay Free with regard to her other children. The Los Angeles social worker stated that mother had not complied with services there. Thus, the social worker was unable to verify the Stay Free letter or the curriculum's compliance with CFS standards.

The court held a hearing on April 25, 2019, and heard argument from counsel. Mother's position was that she was benefitting from her counseling, she had visited the child, and that "[i]t appear[ed] she ha[d] completed her plan." It was also her position that the assessment form she gave the social worker was a psychological assessment that showed she did not have any issues. County counsel asked the court to terminate services. Counsel pointed out that mother was given referrals for a psychological evaluation and mental health services, which she refused. She never completed the court-ordered psychological evaluation, and she proceeded with a therapist who was not approved by CFS. Moreover, CFS was unable to verify the counseling mother claimed to participate in. The social worker added that mother failed to visit the child from August 2018 to December 2018.

The court noted that mother was provided with referrals, but insisted on "doing her own thing," which was not verifiable and did not necessarily meet CFS standards. It further noted that mother was ordered to have a psychological evaluation and concluded that she had not completed any significant portion of her case plan. The court decided to

follow the social worker's recommendation of terminating services and setting a section 366.26 hearing.

ANALYSIS

There Was Substantial Evidence to Support the Termination of Reunification Services

Mother argues there was insufficient evidence to support the court's finding that there was no substantial probability the child would be returned to her care within the 12-month period. She contends that she completed counseling, a parenting program, and a domestic violence program, that she visited the child regularly, and she completed a psychological evaluation. Thus, she requests that the order terminating her reunification services and setting a section 366.26 hearing be reversed and the court extend her services to the 12-month hearing. We conclude the evidence was sufficient.

A. Standard of Review

“At the review hearing held 6 months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. . . . The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental.” (§ 366.21, subd. (e).)

We review a juvenile court's order at a section 366.21 hearing for substantial evidence. (*In re Shaundra L.* (1995) 33 Cal.App.4th 303, 316.) “ ‘All conflicts must be resolved in favor of respondent on appeal and all legitimate and reasonable inferences indulged in to uphold the verdict if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.’ ” (*Adoption of R.R.R.* (1971) 18 Cal.App.3d 973, 983.)

B. The Evidence Was Sufficient

The evidence demonstrated that mother failed to participate regularly and make substantive progress in her case plan. The child was removed from her custody at the jurisdiction/disposition hearing on September 18, 2018. At that time, the court ordered reunification services, including the requirements that she participate in general counseling and a parenting education program. It later ordered her to undergo a psychological examination at CFS expense.

In the six-month status report filed on February 25, 2019, the social worker stated that she met with mother to discuss her case plan, and mother was still upset about the child being removed from her care. The social worker reported that she had offered referrals to services several times, but mother declined and said she had obtained her own counseling. Mother obtained services from HOPICS and Stay Free. However, those services were not authorized or approved by CFS, and the social worker was unable to confirm her participation or verify any progress. Although mother provided a letter to the social worker from HOPICS stating that she was active in “mental health services,” the

letter did not give any insight on her progress or behavioral changes. Although she also provided a letter from Stay Free, the social worker was not able to verify the letter. The social worker found a Web site for Stay Free, but it was out of date, and the contact number listed was for a private cell phone. She called, and the person said it was the wrong number.

Additionally, mother failed to comply with the court's order to undergo a psychological evaluation. She repeatedly refused to do so and declined referrals, stating that she was "not crazy." She later provided the social worker with an assessment form, which she asked the court to accept as compliance with the psychological evaluation order. However, the form was completed and signed by a family medicine doctor, not a licensed psychologist. It was not actually a psychological evaluation.

We further note the social worker observed that mother failed to demonstrate any behavioral changes or take responsibility for her role in the child's removal. Instead, she blamed others for her current situation. Moreover, the social worker was concerned by mother's reactions to difficult and stressful situations, including becoming enraged, cussing, and yelling, which caused the child to cry. Mother's reactions properly caused concern about her ability to maintain a safe and stable environment, especially given that the child had special needs.

We conclude the evidence was sufficient to support the court's finding that mother failed to participate regularly and make substantive progress in her case plan. Therefore, the court properly terminated services and set a section 366.26 hearing.

DISPOSITION

The writ petition is denied.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

McKINSTER
Acting P. J.

We concur:

FIELDS
J.

RAPHAEL
J.